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8 **UNITED STATES DISTRICT COURT**

9 **DISTRICT OF NEVADA**

10

11 JAMES M. PHILLIPS, an Individual; and
12 MARILYN MARIE LARSEN-PHILLIPS, an
Individual,

13 Plaintiff,

14 v.

15 BISHOP HEATING & AIR
16 CONDITIONING, INC., a California
17 Corporation, DOES I through X, inclusive,
and ROE CORPORATIONS XI through XX,
inclusive,

18 Defendants.

Case No.: 2:23-CV-01445-RFB-BNW

**STIPULATION AND ORDER TO
EXTEND DISCOVERY (THIRD
REQUEST)**

19
20 **IT IS HEREBY STIPULATED AND AGREED** by and between Plaintiffs JAMES M.
21 PHILLIPS and MARILYN MARIE LARSEN-PHILLIPS (“Plaintiffs”), by and through their
22 attorneys of record, Jemma E. Dunn, Esq. and Karson D. Bright, Esq. of Greenberg Gross, LLP, and
23 Defendant, BISHOP HEATING & AIR CONDITIONING, INC. (“Defendant”), by and through
24 their attorney of record, Lucian J. Greco, Jr, Esq., Melissa Ingleby, Esq., and Thuong (Cindy) H.
25 Nguyen, Esq. of Bremer, Whyte, Brown & O’Meara, LLP, (collectively, the “Parties”), and for good
26 cause shown that the discovery deadlines in the above-entitled matter be extended with sixty (60)
27 days to allow for necessary expert discovery.
28

1 **I. DISCOVERY COMPLETED TO DATE**

2 Listed below is a statement specifying the discovery completed in this case:

- 3 1. Plaintiffs' Initial List of Witnesses and Production of Documents made Pursuant to
4 FRCP 26(a)(1).
- 5 2. Defendant's Initial List of Witnesses and Production of Documents made Pursuant to
6 FRCP 26(a)(1).
- 7 3. Defendant's First Set of Interrogatories to Plaintiff James Phillips, and Plaintiff James
8 Phillips' Responses to Defendant's First Set of Interrogatories to Plaintiff.
- 9 4. Defendant's First Request for Production of Documents to Plaintiff James Phillips,
10 Plaintiff James Phillips' Responses to Defendant's First Request for Production of
11 Documents to Plaintiff.
- 12 5. Defendant's First Request for Admission to Plaintiff James Phillips, and Plaintiff
13 James Phillips' Responses to Defendant's First Request for Admission to Plaintiff.
- 14 6. Plaintiffs' First Set of Interrogatories to Defendant, and Defendant's Responses to
15 Plaintiffs' First Set of Interrogatories to Defendant.
- 16 7. Plaintiffs' First Request for Production of Documents to Defendant, and Defendant's
17 Responses to Plaintiffs' First Request for Production of Documents to Defendant.
- 18 8. Plaintiffs' First Request for Admission to Defendant, and Defendant's Responses to
19 Plaintiffs' First Request for Admission to Defendant.
- 20 9. Plaintiffs' First Supplemental List of Witnesses and Production of Documents made
21 Pursuant to FRCP 26(a)(1).
- 22 10. Defendant issued Subpoenas for Plaintiff James Phillips' medical records, and Valley
23 Propane Company.
- 24 11. Deposition of Bill Chezum completed on December 21, 2023.
- 25 12. Defendant's First Set of Interrogatories to Plaintiff Marilyn Marie Larsen-Phillips.
- 26 13. Defendant's First Request for Production of Documents to Plaintiff Marilyn Marie
27 Larsen-Phillips.
- 28 14. Defendant's First Request for Admission to Plaintiff Marilyn Marie Larsen-Phillips.

15. Rule 35 Examinations of Plaintiff James Phillips completed on January 29, 2024.
16. Depositions of Plaintiff James Phillips completed on February 29, 2024.
17. Defendant's First Supplemental List of Witnesses and Production of Documents made Pursuant to FRCP 26(a)(1).
18. Defendant's Second Supplemental List of Witnesses and Production of Documents made Pursuant to FRCP 26(a)(1).
19. Defendant's Third Supplemental List of Witnesses and Production of Documents made Pursuant to FRCP 26(a)(1).

II. DISCOVERY REMAINING TO BE COMPLETED

The Parties plan to complete the following discovery:

1. Plaintiff Marilyn Marie Larsen-Phillips' Responses to Defendant's First Set of Interrogatories.
2. Plaintiff Marilyn Marie Larsen-Phillips' Responses to Defendant's First Request for Production of Documents.
3. Plaintiff Marilyn Marie Larsen-Phillips' Responses to Defendant's First Set for Request for Admission.
4. Supplement records with Plaintiff James Phillips' recent and on-going treatment;
5. Parties' Initial Expert and Rebuttal Disclosures;
6. Depositions of Plaintiff Marilyn Marie Larsen-Phillips;
7. Deposition of the FRCP 30(b)(6) representative of Defendant;
8. Deposition of Jose Jiminez;
9. Deposition of Thomas Herrera
10. Depositions of percipient witnesses.
11. Depositions of the Plaintiff James Phillips' treating physicians and/or retained experts.
12. Depositions of the Defendant's experts;
13. Supplemental FRCP 26 disclosures;
14. Additional written discovery and/or subpoena duces tecum of records from necessary

1 providers;

2 15. Any additional discovery that is necessary as the Parties proceed through discovery.

3 **III. REASONS WHY DISCOVERY WAS NOT COMPLETED WITHIN THE**
TIME SET BY DISCOVERY PLAN & GOOD CAUSE UNDER LR 26-3

4 This is the third request for an extension of discovery deadlines requested by the parties. The
 5 parties stipulate to extend expert deadlines in this case. Good cause is shown to extend the discovery
 6 deadlines, as despite the Parties' diligence and good faith attempts to pursue discovery in preparation
 7 of their respective case, the existing deadlines do not provide the parties with sufficient time to
 8 complete crucial discovery to ensure this matter is resolved on its respective merits. Plaintiffs'
 9 expert, Dr. Jason Garber, ordered a neuropsychological and neurocognitive test of Plaintiff James
 10 Phillips, and requires additional time to review the results of these tests for completion of his report.
 11 Plaintiff James Phillips' neurologist and clinical neuropsychologist, Dr. Katharine Miller, will be
 12 conducting the neuropsychological and neurocognitive tests. Dr. Miller's availability is almost
 13 completely booked through to 2025. However, the parties were fortunate enough to schedule
 14 Plaintiff James Phillips's tests with Dr. Miller on March 14, 2024, one day before the current
 15 deadline to disclose initial experts in this matter. Plaintiffs' counsel's efforts to secure an earlier date
 16 for the examinations were unsuccessful, thus resulting in the instant stipulation. In addition,
 17 Defendant is still in the process of obtaining Plaintiff James Phillips' medical records for his ongoing
 18 treatment which are necessary prior to further depositions and the initial expert disclosure deadline.
 19 As such, the deadlines cannot be reasonably met despite the diligence of the Parties. *See Johnson v.*
 20 *Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992).

21 Moreover, the parties continue to engage in informal settlement discussions.
 22 Correspondence pertaining to settlement has been exchanged, with the topic of mediation having
 23 been introduced. Both parties demonstrate a willingness to participate in further comprehensive
 24 discussions regarding settlement following the acquisition of Plaintiff James Phillips' medical
 25 records concerning his ongoing medical treatment. The parties are actively engaging in discovery
 26 in this matter. Furthermore, the parties are acting in good faith in filing this Stipulation and without
 27 an intent to improperly delay the proceedings. Continuing the expert deadline will not prejudice any
 28

1 party or have a negative impact upon the judicial administration of this Honorable Court.
 2 Accordingly, the Parties are requesting a sixty (60) day extension to all remaining discovery
 3 deadlines.

4 **IV. PROPOSED SCHEDULE FOR COMPLETING DISCOVERY**

5 The Parties hereto, and for good cause described in this Stipulation, and in accord with Local
 6 Rule 6-1 and Local Rule 26-3, request this Honorable Court to adopt and approve this stipulated
 7 extension to the discovery plan, and continue the discovery deadlines as requested below:

Event:	Current Date:	Proposed Date:
Discovery Cutoff Date:	May 14, 2024	July 15, 2024
Expert Designations:	March 15, 2024	May 14, 2024
Rebuttal Designations:	April 14, 2024	June 13, 2024
Dispositive Motions:	June 13, 2024	August 14, 2024
Joint Pre-Trial Order:	July 13, 2024	September 13 , 2024

14 As set forth herein, this Stipulation is supported by good cause and is not for purposes of
 15 delay.

16 The parties hereby stipulate to extend the remaining discovery deadlines included in the
 17 discovery plan by sixty (60) days.

18 IT IS SO STIPULATED.

19 DATED this 1st day of March 2024.

21 **GREENBERG GROSS LLP**

23 /s/ Karson D. Bright
 JEMMA E. DUNN, ESQ.
 Nevada Bar No. 16229
 KARSON D. BRIGHT, ESQ.
 Nevada Bar No. 14837
Attorney for Plaintiffs

DATED this 1st day of March 2024

**BREMER WHYTE BROWN &
 O'MEARA**

23 /s/ Melissa Ingleby
 LUCIAN J. GRECO, JR., ESQ.
 Nevada State Bar No. 10600
 MELISSA INGLEBY, ESQ.
 Nevada Bar No. 12935
 THUONG (CINDY) H. NGUYEN, ESQ.
 Nevada Bar No. 16436
Attorneys for Defendants

ORDER

Based upon the stipulation of the parties hereto, and for good cause appearing:

IT IS HEREBY ORDERED that the discovery deadlines are extended as follows:

Event:	Deadline:
Discovery Cutoff Date:	July 15, 2024
Expert Designations:	May 14, 2024
Rebuttal Expert Designations:	June 13, 2024
Dispositive Motions:	August 14, 2024
Joint Pre-Trial Order:	September 13 , 2024

Benswiken
United States Magistrate Judge

DATED: 3/5/2024

Respectfully submitted,

GREENBERG GROSS LLP

By: /s/ Karson D. Bright

JEMMA E. DUNN, ESQ.

Nevada Bar No. 16229

KARSON D. BRIGHT, ESO.

KIRKON D. BRIGGS

Nevada Bar No. 1485
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